




FREDERICK COUNTY GOVERNMENT

DIVISION OF PLANNING & PERMITTING

Jan H. Gardner
County Executive

Steven C. Horn, Division Director

TO: Frederick County Planning Commission

FROM: Steven C. Horn, Director, Planning & Permitting Division 

DATE: August 1, 2022

SUBJECT: Bill #22-13: Revisions to 1-16-106 of the Frederick County
Subdivision Regulations- Water and Sewer Facilities

Attached, please find the proposed Bill and Staff report. The Council has requested a review and comment from the Planning Commission on this Bill.

Thank you for your attention to this matter.

Attachment
Proposed Bill

FREDERICK COUNTY PLANNING COMMISSION
August 17, 2022 9:30 a.m.

TITLE: Bill #22-13 Revisions to 1-16-106 of the
Frederick County Subdivision Regulations-
Water and Sewer Facilities

FILE NUMBER: N/A

REQUEST: Public Hearing and Planning Commission
Recommendation to the County Council

PROJECT INFORMATION: N/A

APPLICANT/REPRESENTATIVES: Council Member M.C Keegan-
Ayer on behalf of the County
Executive

STAFF: Mark Schweitzer, Director, Division of Water and Sewer
Utilities

RECOMMENDATION: That the Planning Commission provide a
recommendation to the Frederick County
Council regarding the Text Amendment.

ATTACHMENTS:
Staff Memo
Proposed Bill



Frederick County, Maryland

Staff Report Concurrence Form

To: Office of the County Executive

Date: 05/09/2022

Division Director: Mark Schweitzer

Approved:

DocuSigned by:

Mark Schweitzer

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From: Mark A. Schweitzer

Division:

Water and Sewer Utilities

Phone #: 301-600-2296

Staff Report Topic:

Revisions to Section 1-16-106 of the Frederick County Subdivision Regulations - Water and Sewer Facilities

Time Sensitive? Yes ☐ (if yes, deadline for approval: _____) No ☒

Action Requested by Executive's Office: Signature Requested ☒ OR Information Only ☐

Staff Report Review:

This staff report has been thoroughly reviewed first by the appropriate divisions/agencies noted on Page 2 followed by those outlined below:

	Name	Signature	Date
Budget Office	Kelly Weaver	DocuSigned by: Kelly Weaver	5/9/2022
Finance Division	Dan Lewis	15B08097D28046D... DocuSigned by: Dan Lewis	5/9/2022
County Attorney's Office	Kathy L Mitchell	6B3C860F7C40447... DocuSigned by: Kathy L Mitchell	5/9/2022

Refer to County Council? Yes ☒ No ☐

(County Attorney's Office to complete)

Chief Administrative Officer	Rick Harcum	DocuSigned by: Rick Harcum	5/9/2022
County Executive	Jan Gardner	20E502B088947C... DocuSigned by: Jan Gardner	5/10/2022

Forward to Council? Yes ☒ No ☐

(County Executive to complete)



Frederick County, Maryland

Staff Report Concurrence Form

Other Reviewers:

Title	Name	Signature	Date
3. Chief Financial Officer	Lori Depies	DocuSigned by: <i>Lori Depies</i>	5/9/2022
4. Division Director	Steve Horn	DocuSigned by: <i>Steve Horn</i>	5/9/2022
5.			
6.			
7.			
8.			
9.			
10.			

Comments:


From	Date	Comment

**FREDERICK COUNTY GOVERNMENT****DIVISION OF WATER AND SEWER UTILITIES**Jan H. Gardner
County Executive

Mark A. Schweitzer, Director

MEMORANDUM

TO: Jan H. Gardner, County Executive

FROM: Mark A. Schweitzer, Director, Division of Water and Sewer Utilities (DWSU) 

DATE: May 6, 2022

SUBJECT: Revisions to §1-16-106 of the Frederick County Subdivision Regulations – Water and Sewer Facilities

ISSUE: Should the County Executive forward a bill revising §1-16-106 of the Frederick County Subdivision Regulations (Attachment 1) to County Council changing the requirement that both public water and sewer facilities must be operational within 90 days to 180 days of final plat recordation for non-residential (commercial) properties?

BACKGROUND: Currently, the County Subdivision Regulations require the Division of Utilities and Solid Waste Management (now Water and Sewer Utilities) to certify that all such off-site water and sewer lines and facilities shall be operational within 90 days of final plat recordation. This “90-day rule” provides a quantified time period to further clarify certain requirements in §9-512 of the Environment Article, Annotated Code of Maryland. The Code states, “(1) A State or local authority may not record or approve a subdivision plat unless any approved facility for conveying, pumping, storing, or treating water, sewage, or solid waste to serve the proposed development would be: (i) Completed in time to serve the proposed development.”

The current Subdivision Regulations §1-16-106 do not provide any distinction between residential and non-residential projects. Non-residential projects typically have additional site plan efforts to complete and these plans cannot be approved until the lot is recorded. In addition, if the non-residential use fails to complete improvements required to obtain a building permit, they will only harm themselves and not residential homeowners. Because these are non-residential uses, the issue is of less concern and can be managed at later stages of the development process. For building permits to be issued, all water and sewer facilities serving the lot must be adequate and operational.

The proposed amendment provides more lead time (180 days) for completion of water and sewerage facilities for these non-residential subdivision projects, while leaving the 90-day requirement in place for residential subdivisions.

RECOMMENDATION: The DWSU recommends approval of the attached bill amendment for consideration by County Council allowing recordation of a non-residential subdivision plat if the

Jan H. Gardner, County Executive

RE: Revisions to §1-16-106 of the Frederick County Subdivision Regulations – Water and Sewer Facilities
May 6, 2022

Page 2

Division of Water and Sewer Utilities determines that all off-site public water and sewerage facilities will be operational within 180 days of final plat recordation.

.....

Approve? Yes X No _____

DocuSigned by:

Jan Gardner

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5/10/2022

Jan H. Gardner, County Executive
Frederick County, Maryland

Date

FINANCIAL IMPACT: No

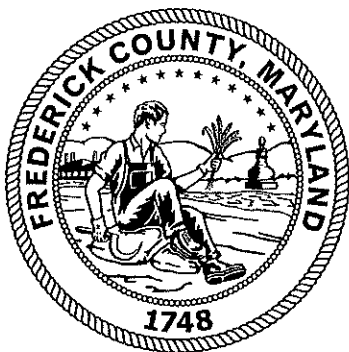
ATTACHMENT(S):

Attachment 1 – Revisions to §1-16-106 of the Frederick County Subdivision Regulations –
Water and Sewer Facilities

cc: Steve Horn, Director, Division of Planning and Permitting

MAS:mas

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Bill No. _____

Concerning: _____

Introduced: _____

Revised: _____ Draft No. _____

Enacted: _____

Effective: _____

Expires: _____

Frederick County Code, Chapter 1-16

Section(s) § 1-16-106

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: _____

AN ACT to: allow recordation of a non-residential subdivision plat if the Division of Water and Sewer Utilities determines that all off-site public water and sewerage lines and facilities will be operational within 180 days of final plat recordation.

Date Council Approved: _____ Date Transmitted to Executive: _____

Executive: _____ Date Received: _____

Approved: _____ Date: _____

Vetoed: _____ Date: _____

Date returned to Council by County Executive with no action: _____

By amending:

Frederick County Code, _____ Section(s) _____

Other: _____

Boldface

Underlining

[Single boldface brackets]

Heading or defined term.

Added to existing law.

Deleted from existing law.

Existing law unaffected by bill.

Bill No. **_**

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend §1-16-106 of the Frederick County Code to allow recordation of a non-residential subdivision plat if the Division of Water and Sewer Utilities (DWSU) determines that all off-site public water and sewerage lines and facilities will be operational within 180 days of final plat recordation, (assuming all other requirements not related to public water and sewer are met as well). Current law requires a determination by DWSU that off-site public water and sewerage lines and facilities will be operational within 90 days of final plat recordation, and this requirement will continue to apply to residential subdivision plats.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

AND BE IT FURTHER ENACTED, that the amendments shown on Exhibit 1 will be effective for building permits issued on or after the effective date of this Bill.

M. C. Keegan-Ayer, President
County Council of Frederick County,
Maryland

Exhibit 1

§ 1-16-106. WATER AND SEWER FACILITIES.

(A) *In general.* A proposed final plat shall be disapproved unless the facilities for conveying, pumping, storing, or treating water or sewage to serve the proposed subdivision would be completed in time to serve the proposed subdivision.

(B) *Individual sewerage systems.* In the case of a proposed subdivision otherwise approved for individual sewerage systems, a presumption shall exist that the sewerage facilities for the proposed subdivision will be completed in time to serve the proposed subdivision if the health authority tests and approves all lots in the proposed subdivision for individual sewerage systems.

(C) *Individual water supply systems.* In the case of a proposed subdivision otherwise approved for individual water supply systems, a presumption shall exist that the water facilities for the proposed subdivision will be completed in time to serve the proposed subdivision if all lots in the proposed subdivision have wells that yield water of sufficient quantity to comply with all applicable laws and regulations.

(D) *Community sewerage system.* In the case of a proposed subdivision otherwise approved for a community sewerage system, a presumption shall exist that the sewer facilities for the proposed subdivision will be completed in time to serve the proposed subdivision upon the occurrence of all of the following events:

(1) The subdivider and the county make a written public works agreement, ~~[or]~~ public improvements agreement, or performance agreement that provides for the construction and installation of sewer lines and facilities;

(2) All necessary off site land, easements and rights-of-way required for the construction and installation of sewer facilities to serve the subdivision have been conveyed to the county and recorded in the land records;

(3) All contracts funded by developers and/or the county for the construction of public sewer lines or facilities to provide service ~~[up]~~ to the [site]subdivision have been executed; and

(4) For residential subdivisions, ~~t[he]~~ the Division of Water and Sewer Utilities ~~[and Solid Waste Management certify]~~ ("DWSU") determines that all ~~[such]~~ off site sewerage lines and facilities shall be operational within 90 days of final plat recordation.

(5) For non-residential subdivisions, the DWSU determines that all off site sewerage lines and facilities will be operational within 180 days of final plat recordation. A note must be added to final plats for these non-residential subdivisions stating: "Prior to building permit issuance for any lot or parcel in this subdivision, the Division of Water and Sewer Utilities must first determine that sewerage lines and facilities are operational." For the

Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

*** - indicates existing law unaffected by bill.

purposes of this subsection, the term “non-residential subdivisions” excludes mixed-use lots that contain any residential component.

(E) *Community water supply system.* In the case of a proposed subdivision otherwise approved for a community water supply system, a presumption shall exist that the water facilities for the proposed subdivision will be completed in time to serve the proposed subdivision upon the occurrence of all of the following events:

(1) The subdivider and the county make a written public works agreement, ~~[or]~~ public improvements agreement, or performance agreement that provides for the construction and installation of water lines and facilities;

(2) All necessary off site land, easements and rights-of-way required for the construction and installation of water facilities to serve the subdivision have been conveyed to the county and recorded in the land records;

(3) All contracts funded by developers and/or the county for the construction of public water lines or facilities to provide service ~~[up]~~ to the ~~[site]~~ subdivision have been executed; and

(4) For residential subdivisions, ~~[F] the DWSU [ivision of Utilities and Solid Waste Management-certify]~~ determines that all ~~[such]~~ off site water lines and facilities shall be operational within 90 days of final plat recordation

(5) For non-residential subdivisions, the DWSU determines that all off site water lines and facilities will be operational within 180 days of final plat recordation. A note must be added to final plats stating: “Prior to building permit issuance for any lot or parcel in this subdivision, the Division of Water and Sewer Utilities must first determine that water lines and facilities are operational.” For the purposes of this section, non-residential subdivisions exclude mixed-use lots that contain any residential component.

(F) *Water and/or sewer easement extensions.* Water and/or sewer easement extensions to service adjoining properties within the service area shall be extended to the boundary line as determined by the Division of Water and Sewer Utilities~~[-and-Solid-Waste Management]~~.

Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

*** - indicates existing law unaffected by bill.

